Presentation on Charter School Lease Agreements and Purchase Agreements

By Joel Wright of Kirton & McConkie (801-368-5385 or jwright@kmclaw.com)

Lease Agreements

A charter school typically spends up to 25% of their annual budget for the lease on their building. No one starts a charter school to deal with real estate issues, but nothing at the charter school is likely to work very well unless the school has negotiated a good Lease Agreement that takes into account the key variables below:

- 1. Why Lease instead of Buy?
- 2. Why would anyone give you the keys to a \$10 million special purpose building? (or what motivates a Landlord)
- 3. RFP (or why competition is a good thing)
- 4. Price
- 5. Location (location, location!)
- 6. Triple Net (insurance, utilities, property taxes)
- 7. Size (function of enrollment, size of building, size of land)
- 8. Needs vs. Wants! (there is a difference)
- 9. PURCHASE OPTION
- 10. Deadlines (starting and finishing, and why January 1 matters)
- 11. Does your building reflect your school's values and help you accomplish your mission? (growing trend)
- 12. Who pays for what? (repairs, unfinished work, defective work, etc.)
- 13. Change Orders (more or less? Increase or decrease in rent?)
- 14. Gradual increase in enrollment (can you?)

In sum, a good Lease Agreement between a charter school and a Landlord is very much like a marriage – everyone is unique, and cannot be perfectly duplicated. Some work, and some don't. An experienced real estate attorney will save you much more than their fees if they can negotiate the optimal terms for your school on each of the points above quickly and efficiently.

Purchase Agreements

Almost all successful charter schools purchase their building in their first five years because it typically saves them a substantial amount of money over staying in their lease.

Key variables to consider in a Purchase Agreement:

- 1. Price (do you have an appraisal?)
- 2. Interest Rates (macro vs. micro)
- 3. Best financing terms possible (how do you get them?)
- 4. Property Taxes
- 5. Down side of owning (repairs)
- 6. Equity
- 7. Expand! (expansion, satellite, new charter?)
- 8. Inspection, and repairs

Last Words

You want to get a good building in the right location for the right price that allows you to focus on your mission. Once you've purchased your building, you'll hopefully need to give it very little thought going forward.